

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
POWER OF ATTORNEY**

In Re New United States Patent Application:

Title: NETWORK BANDWIDTH ANOMALY DETECTOR
APPARATUS, METHOD, SIGNALS AND MEDIUM

First Named Inventor: Gary Lorne MacIsaac

Executed: Nov. 25, 2003

Priority:
United States Provisional
Application Number: 60/433,032

Filing Date: December 13, 2002

International Application
Number: PCT/CA03/00724

International Filing Date: May 15, 2003

The undersigned hereby appoints as its attorneys and/or agents, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Ralph A. Dowell, Reg. No. 26868; A. Yates Dowell, Reg. No. 28070

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The undersigned hereby further appoints the following agents and authorizes the U.S. attorney(s) or agent(s) named above to accept and follow instructions from the following agents: John W. Knox, Reg. No. 35,776; J. Christopher Robinson, Reg. No. 35,772; Brian G. Kingwell, Reg. No. 39,482; Neil S. Clark, Reg. No. 37,524; James McGraw, Reg. No. 28,168; Joy D. Morrow, Reg. No. 30,911; R. Allan Brett, Reg. No. 40,476; Ronald D. Faggetter, Reg. No. 33,345; Yoon Kang, Reg. No. 40,386; Matthew Zischka, Reg. No. 41,575; and Stephen J. Ferance, Reg. No. 48,090 of the firm Smart & Biggar as to any action to be taken in the Patent and Trademark Office regarding this application.

CETACEA NETWORKS CORPORATION


Signature

Print Name: Gary MacIsaac

Title: President

Date: Nov. 25, 2003

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: CETACEA NETWORKS CORPORATION

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled: NETWORK BANDWIDTH ANOMALY DETECTOR APPARATUS, METHOD, SIGNALS AND MEDIUM

CETACEA NETWORKS CORPORATION, a Corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest.

The extent (by, percentage) of its ownership interest is _____ %
in the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☒ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Nov. 25, 2003
Date

604-812-6476
Telephone number

Gary Lorne MacIsaac

Typed or printed name


Signature

President

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETE D FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
DECLARATION**

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below beneath my name,

That I verily believe that I am the original, first and sole inventor [if only one name is listed below] or a joint inventor [if plural names are listed below] of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**NETWORK BANDWIDTH ANOMALY DETECTOR APPARATUS, METHOD, SIGNALS
AND MEDIUM**

the specification of which

☒ **is attached hereto**

☐ was filed on _____ as U.S. Application Serial No. _____

☐ was filed on _____ as PCT International Application Serial No. _____

and (if applicable) was amended on _____

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations §1.56(a) and (b) which state:

"(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by Section 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or

the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application,
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability."

I hereby claim foreign priority benefits under Title 35, United States Code §119 and/or §365 of any foreign application[s] for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing of this application:

PRIOR FOREIGN APPLICATION[S]:

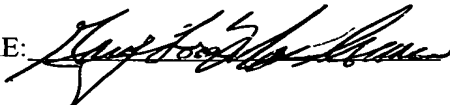
<u>Number</u>	<u>Country</u>	<u>Filing Date (D/M/Y)</u>	<u>Date First Laid-Open or Published</u>	<u>Date Patented or Granted</u>	<u>Priority Claimed?</u>
PCT/CA03 /00724	PCT	15/5/2003			YES

I hereby claim the benefit under Title 35, United States Code, §119 and/or §120 of any United States application[s] listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations §1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>60/433,032</u>	<u>13/12/2002</u>	<u>Pending</u>
[Application Serial No.]	[Filing Date]	[Status: patented, pending, abandoned]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or

imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

1) INVENTOR'S SIGNATURE:  Date: Nov. 25, 2003.

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Country of Citizenship: Canada

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